

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH, JAIPUR.

:: J U D G M E N T ::

D.B. CIVIL SPECIAL APPEAL No.13/97

Ram Brij & Anr.
Vs.
State of Rajasthan & Ors.

Date of Judgment :::: 4.4.2007

P R E S E N T

HON'BLE THE CHIEF JUSTICE SHRI S.N.JHA
HON'BLE SHRI JUSTICE MOHAMMAD RAFIQ

Shri P.K. Sharma for appellants.
Shri B.L. Awasthi, Addl. GA for State.

BY THE COURT (PER HON'BLE THE CHIEF JUSTICE)(ORAL):-

This special appeal is directed against the order of the learned Single Judge dated 24.9.1996 in S.B. Civil Writ Petition no.3957/96 dismissing the writ petition of the appellants.

The dispute relates to appointment on the post of Constable in the Rajasthan Armed Constabulary, 6th Batalion, Dholpur. The case of the appellants is that 61 posts of Constables in the 6th Battalion were advertised in 1994. The merit list of 61 selected candidates was prepared along with a reserved list of

17 candidates in which names of the appellants find place. However, 17 more posts were filled, in addition to 61 vacancies, out of which 9 persons were transferred from other Battalions. In other words after appointing 61 candidates from the main list, 17 more appointments were made, out of which 8 were from the reserved list, while the rest 9 belongs to other Battalions. The case of the appellants is that the additional vacancies should have been filled up from the reserved list and the action of the respondents in appointing the candidates from other Battalions on transfer was not in accordance with law. It is not the case of the appellants that any candidate placed below them in the reserved list was appointed against those 17 vacancies. Rule 6(a) of the Rajasthan Police Subordinate Service Rules, 1989 provides for the modes of recruitment by direct recruitment or by promotion. Clause (1) of Rule 6 however lays down that persons so recruited shall be eligible for transfer to other branches, which means that transfer is permissible. It is the admitted position that 9 persons had already been selected and appointed in other Battalions. Their appointment and transfer to the Battalions cannot be subjected to be in contradict with the Rules. The Battalion service has been defined in Rule 2(p) to mean the Rajasthan Police Subordinate Service. That being so, we do not find any violation of law in the

transfer and appointment of the so-called 9 outsiders. As a matter of fact, already 61 vacancies have been advertised. The appellants cannot claim consideration beyond those 61 vacancies. Admittedly, as seen above, all the 61 vacancies were filled up from the main list and the candidates placed in main list were possessing better merit than petitioners and petitioners have not made any grievance regarding their selection as well as appointment. The 17 vacancies having not been notified, therefore, the appellants cannot claim consideration on it, may be 8 candidates out of which were taken from the reserved list. It is not the case of the appellants that the candidates appointed were placed below in the reserved list. Twelve years have already elapsed since appointments. No post can be reserved for the appellants. Since the transfer and appointment of those 9 persons not being contradictory in law, no relief can be granted to the appellants at this stage.

We do not find any merit in this appeal, which is accordingly dismissed.

(Mohammad Rafiq), J.

(S.N. Jha), C.J.